



**Consumer Protection Division**  
OFFICE OF THE ATTORNEY GENERAL OF MARYLAND

## **NEW HOME BUYERS:**

### **What You Should Know Before You Pay a Deposit On Your New Home**

When you sign a contract to purchase a lot with a new home, the builder generally requires that you pay a deposit.

**Maryland law requires that the builder put your deposit in an escrow account, unless your builder has a surety bond or letter of credit on file with the State.**

Your builder has completed the other side of this form to tell you how the builder intends to comply with this law.




#### **What the Builder Must Do With Your Deposit:**

The builder must keep the money in the escrow account, or maintain the surety bond or letter of credit in effect, until one of three things happens:

- (1) the builder transfers the deed to you at settlement. The amount of the deposit is then credited to you as payment towards the total purchase price and the builder then keeps the deposit, *or*
- (2) the builder returns the deposit money to you, *or*
- (3) you fail to do something that is required in your contract, and your contract provides that the builder can keep the deposit because of that failure.

**Before you sign the contract, make sure you understand what you have to do to avoid losing your deposit.**

#### **What You Should Do If the Builder Does Not Comply with the Law:**

-  **Contact the Home Builder Registration Unit of the Consumer Protection Division** at 410-576-6573; 200 St. Paul Place, 16th Floor, Baltimore, MD 21202.  
E-mail address: [homebuilder@oag.state.md.us](mailto:homebuilder@oag.state.md.us)
-  **Contact the State's Attorney Office in the county in which the house was to be built.** Willful and knowing failure to maintain the corporate surety bond, irrevocable letter of credit, or escrow account may be a felony, punishable by a fine, prison sentence, and restitution to the consumer.
-  **Contact your private attorney.** Violation of the law may also constitute a breach of contract and an unfair or deceptive trade practice under the Consumer Protection Act.

The builder has checked each applicable box below to indicate whether the builder will be using an escrow account, surety bond or letter of credit:

---




## Escrow Accounts

The builder will deposit the buyer's deposit into an escrow account at:




Name of financial institution: \_\_\_\_\_

Name on the account: \_\_\_\_\_

The account number: \_\_\_\_\_

-  **Buyers: make your deposit check payable to the escrow account name and number listed above.**
  -  The builder must use the escrow account solely to hold buyers' deposits, and must keep the escrow account separate from the builder's other accounts. The law prohibits the builder from using the deposit money for its operating expenses or any other purpose.
  -  Money in the builder's escrow account can be withdrawn on the builder's signature alone, and you will not necessarily know if the builder withdraws the money. **For additional protection, you may want to negotiate a clause in your sales contract that requires that the deposit be put in a separate escrow account that requires both your's and your builder's signatures to withdraw.**
- 

## Surety Bonds and Letters of Credit

- The builder has a corporate surety bond on file with the Home Builder Registration Unit of the Consumer Protection Division.
  - The builder has a letter of credit on file with the Home Builder Registration Unit of the Consumer Protection Division.
  -  The surety bond or letter of credit provides that if the builder does not properly use or return its buyers' deposits as required by law, a third party insurance company or bank will pay up to the total amount of the bond or letter of credit. The amount of the bond or letter of credit is set by law to provide at least partial coverage of the deposits of that builder's new home buyers, but may not provide full coverage for all buyers' deposits.
  -  To verify that your builder is covered by a corporate surety bond or letter of credit, call the Home Builder Registration Unit at 410-576-6573 or toll-free at 1-877-259-4525.
  -  You may make a claim on the builder's surety bond or letter of credit by sending a letter that describes your complaint and a copy of your contract to: Director, Home Builder Registration Unit, Consumer Protection Division, 200 St. Paul Place, 16th Floor, Baltimore, MD 21202.
- 

*The Builder hereby certifies that it will comply with Art. 10, Subtitles 3 and 5 of the Md. Real Property Code Ann. by using the escrow account, surety bond, and/or letter of credit described above.*

\_\_\_\_\_  
*Full Legal Name of Builder and Registration Number*

\_\_\_\_\_  
*Signature of Authorized Agent*

*The Buyer hereby certifies that he or she has received a copy of this disclosure form.*

\_\_\_\_\_  
*Buyer's Signature*

\_\_\_\_\_  
*Date*

# INSTRUCTIONS FOR THE NEW HOME DISCLOSURE FORM

---

## WHO MUST USE THE NEW HOME DISCLOSURE FORM

- ➔ **“New Homes.”** Builders of “new homes” must provide the New Home Disclosure Form to the purchaser before the purchase contract is signed. Any new home builder who requires or accepts “any sum of money before completion of the unit and grant of the realty to the purchaser” must comply with the new home deposit laws.
- ➔ **“Custom Homes.”** A “custom home” builder builds a house on property that is already owned by the purchaser. The New Home Disclosure Form *does not apply* to custom home builders, but custom home builders are required to include certain provisions in their contracts. See Md. Code Ann., Real Property §§10-301, 306, 10-501, 10-505, 14-117(j).
- ➔ **Exception For Real Estate Broker Escrow Accounts:** However, if the builder sells the new home by using a licensed real estate broker, and all payments prior to settlement are put into the real estate broker’s escrow account, then the builder is exempt from the new home deposit laws. Thus, if all money paid by the purchaser, including deposits, binders and other advance payments, is put into the real estate broker’s escrow account and held until settlement, the builder does not have to provide this disclosure form or maintain a separate escrow account. Md. Code Ann., Real Property §10-304.

## HOW TO OBTAIN PHOTO READY FORMS FOR COMPLETION:

One photo-ready copy of the blank form may be obtained by writing or calling the Consumer Protection Division, Attn: New Home Disclosure Forms, 200 St. Paul Place, 16th Floor, Baltimore, Md. 21202, (410) 576-6573, or visiting our website at [www.oag.state.md.us/homebuilder](http://www.oag.state.md.us/homebuilder), or sending an e-mail request to [homebuilder@oag.state.md.us](mailto:homebuilder@oag.state.md.us).

## HOW TO COMPLETE THE DISCLOSURE FORM BEFORE USING IT:

Each builder must complete the reverse side of the disclosure form as follows:

1. The builder must check the appropriate box or boxes to state whether the builder will be using an escrow account, surety bond, or letter of credit.
2. If the builder is using an escrow account, the builder must complete the lines stating the name of the bank, and name and number of the escrow account.
3. If the builder is using a surety bond or irrevocable letter of credit, the builder must state the name of the issuing bank or insurance company, the number of the bond or letter of credit, and the amount of the bond or letter of credit.
4. The full legal name of the builder and the builder’s Home Builder Registration Number must be stated at the bottom of the reverse side, and
5. An authorized agent of the builder must sign the form at the bottom of the reverse side.
6. The builder must then make photocopies of its completed form for distribution to potential purchasers.

## HOW TO USE THE DISCLOSURE FORM:

The law requires that “PRIOR TO THE EXECUTION OF ANY CONTRACT FOR THE SALE OF A NEW HOME” the builder must provide the potential purchaser with a copy of the disclosure form and obtain the purchaser’s signature on the bottom of the form certifying that the purchaser has received the disclosure form. The builder should then keep the signed form and provide a copy to the purchaser.